NuGen Capital Management, LLC

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Ms. Natalie Andrews
Department of Energy Resources
100 Cambridge Street
Boston, MA 02114

BY ELECTRONIC MAIL

Re: NuGen's Comments on Proposed Change in the SREC Cap

Dear Ms. Andrews:

NuGen Capital Management, LLC (NuGen) is pleased to offer these comments in connection with the DOER's current rulemaking regarding the maximum size of facilities that are eligible to produce solar renewable energy certificates (SRECs) in accordance with the provisions of 225 CMR 14.00.

By way of background, NuGen's primary business is to develop, own, and operate medium-sized (1 to 10MW) behind the meter photovoltaic facilities in states where public policy and regulatory policies encourage investment. To date, NuGen's primary focus has been in the New Jersey market; however, we are actively pursuing additional opportunities in other states, including Massachusetts, at this time.

In short, NuGen supports the proposed change to section 14.05 (4)(a) of the regulations. Indeed, given the action by the legislature in the Economic Development Act signed into law earlier this year, it is hard to imagine how the Department could do anything but increase the maximum size of facilities that can generate SRECs from 2 to 6 megawatts (MW). Our comments focus on the implications of making this single change to the comprehensive framework for solar energy development in the Commonwealth.

First, at the risk of stating the obvious, the proposed change will increase the average size of projects generating SRECs and likely hasten the day that the 400 MW target for new in-state solar generation is met. Accordingly, to keep market participants moving forward with development of new facilities, and creating the economic and environmental benefits that accompany them, the Commonwealth should give serious consideration to significantly increasing the 400MW target. By way of comparison, New Jersey, which has total electricity usage of only 44% greater than Massachusetts, has a state-wide target of approximately 5000 MW of new in-state solar generation by 2026 -- almost nine times greater than the Commonwealth's goal after adjusting for total electricity use. Although Massachusetts clearly is a leadership state in terms of promoting clean energy, it is important to recognize that investors that fund the development of these facilities are able to effectively shop between states and will be drawn to states where there is a clear long-term vision and commitment to making solar energy a substantial part of the state's generation infrastructure.

Second, in addition to paving the way for SRECs, the Green Communities Act addressed several other barriers that were preventing solar, and other distributed generation resources, from expanding. By significantly increasing the threshold for net metering, the benefits of distributed generation were dramatically increased. And through the adoption regulatory changes allowing local distribution companies to recover lost base revenues through revenue decoupling or other arrangements, resistance to the addition and interconnection of new distributed resources has been greatly reduced. As a next step however, it is important for DOER to carefully consider how the pending change in facility size interacts with the current net metering rules. At present, net metering is limited to facilities no greater than 2 MW in size. In light of the fact that facilities up to 6 MW will soon qualify to generate SRECs, the Commonwealth should raise the threshold for facilities that can net meter so that net metering is available to all new in-state solar facilities that generate SRECs, not just facilities of 2MW or less. Again by way of comparison to New Jersey, that state recently eliminated the net metering threshold all together for PV systems (http://www.bpu.state.nj.us/bpu/pdf/rules/20100615adoption.pdf) and only constrains the size of facilities eligible for net metering by the annual electricity usage at the host facility.

Also in connection with the expansion of net metering, the Commonwealth included a provision limiting the cumulative amount of net metering in any distribution company franchise area to 1 percent of peak load (Section 139(g) of the Green Communities Act). This is potentially problematic as the limit on net metering is quickly approaching. Counting applications in process as well as net metering facilities already on line, NSTAR is already over its 1percent cap and National Grid is nearly at 75 percent of its cap. Moreover, in the case of one small distribution company, Fitchburg

Gas and Electric, we understand the cap is only about 1 MW. Given the adoption of revenue decoupling and other protections available to investor owned utilities, this artificial limitation is no longer needed and will likely soon become a constraint to meeting the Commonwealth's larger goals of the installing new solar energy facilities.

NuGen sincerely appreciates the opportunity to offer these comments. Thank you for your attention to this matter.

Very truly yours,

David Milner

David Milner

CEO

cc: Lawrence J. Reilly, Esq.